

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.28950 of 2018

P.Ramalingam

... Petitioner/Accused

Vs.

State rep. by
Inspector of Police,
Reddychavadi Police Station,
Crime No.198/2013
Cuddalore District.

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records of the orders dated 17.07.2018 passed in CrI.M.P.No.2384/2018 in C.C.58/2014 on the file of the Judicial Magistrate - II, Cuddalore, Cuddalore District and set aside the same.

For Petitioner : Ms.P.Lakshmi Devi

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to set aside the order passed in CrI.M.P.No.2384 of 2018 in C.C.No.58 of 2014 dated 17.07.2018, on the file of the Judicial Magistrate - II, Cuddalore, Cuddalore District, dismissing the petition under Section 311 of Cr.P.C. to recall the PW1 to PW5.

2.The learned counsel for the petitioner would submit that the petitioner is a sole accused and trial Court have taken cognizance for the offence under Sections 294(b) and 323 of IPC. They could not cross-examine PW1 to PW5 on the date of chief examination i.e on 01.10.2014 and 17.02.2015 and the cross examination PW6 and PW7 is still pending. At this stage, they filed a petition to recall the PW1 to PW5 for cross examination. The petitioner did not even cross-examine any witnesses. Therefore, he sought for set aside the order passed by the trial Court.

3.The learned Additional Public Prosecutor would submit that the prosecution witnesses were examined in the year 2015 itself. But, they failed to cross-examine them. Therefore, he vehemently opposed.

4. Heard both sides and perused the documents available on record.

5.It is seen from the records, the petitioner is the sole accused and the charges for the offence under Sections 294(b) and 323 of IPC. There are total seven witnesses, in which, five witnesses were already examined by the prosecution on 01.10.2014 and 17.02.2015. Insofar as, PW6 is concerned, he was examined on 21.03.2018 and other witness has to be examined.

6.Considering the above facts and circumstances, the petitioner may be given one more opportunity to recall PW1 to PW5 and cross examine.

7.Accordingly, the order passed by the Judicial Magistrate - II, Cuddalore in CrI.M.P.No.2384 of 2018 in C.C.No.58/2014 dated 17.07.2018 is set aside and the learned Magistrate is directed to permit the petitioner to recall and cross-examine PW1 to PW5 on 26.02.2019 on payment of necessary charges by the petitioner, failing which, the trial Court is directed to proceed with the trial in accordance with law. It is made clear that the petitioner shall complete the cross examination on the same day.

With the above directions, the Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1.The Judicial Magistrate - II,
Cuddalore.

2.Inspector of Police,
Reddychavadi Police Station,
Cuddalore District.

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3.The Public Prosecutor,
High Court, Madras.

+lcc to Ms.P.Lakshmi Devi, Advocate sr.no.14541

CRL.O.P.No.28950 of 2018

ad(co)
nr 25/02/2019



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